

1 STATE OF NEW JERSEY
2 DEPARTMENT OF COMMUNITY AFFAIRS
3 NEW JERSEY PRIVACY STUDY COMMISSION

4 _____
5 In the matter of: Transcript of
6 Public Interest Subcommittee Proceedings
7 Meeting

8 _____

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10 Computer-aided transcript of hearing
11 taken stenographically in the above-entitled
12 matter before KAREN L. DeLUCIA, a Certified
13 Shorthand Reporter and Notary Public of the
14 State of New Jersey, at Rowan State University,
15 Student Ballroom, Glassboro, NJ, on Monday,
16 June 16, 2003, commencing at 4:00 p.m.

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1 A P P E A R A N C E S :

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SUBCOMMITTEE MEMBERS:

5

JUDGE ROSEMARY KARCHER-REAVEY, Chair

6

LARRY LITWIN, Commission Chairman

7

GRAYSON BARBER

8

GEORGE CEVASCO

9

WILLIAM KEARNS

10

H. LAWRENCE WILSON, JR.

11

12

13 A L S O P R E S E N T :

14

CATHERINE STARGHILL, ESQ.

15

Department of Community Affairs

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1 JUDGE KARCHER-REAVEY: Good
2 afternoon. This public hearing is the second
3 in a series of public hearings. Hosted by the
4 Public Interest Subcommittee of the New Jersey
5 Privacy Study Commission. The Privacy Study
6 Commission was created under the Open Public
7 Records Act, which is New Jersey statute
8 47:1a-1, and following sections.

9 I'm Rosemary Reavey. I'm the chair
10 of the Subcommittee. I'm not sure you can read
11 the names of the people sitting with me, but
12 we're all on the Commission. I think most
13 everybody is on the Subcommittee. And we're
14 very anxious and interested to learn what the
15 public has to say about privacy issues in
16 general. And most specifically at this point
17 in time we're interested in what your feelings
18 are about making available telephone numbers
19 and addresses of private citizens by public
20 agencies. At this hearing we're inviting
21 anybody who would like to comment on the
22 privacy issues raised by the collection,
23 processing, news and dissemination of

24 information by public agencies.

25 We've prepared a brief statement of

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1 the issues, and several questions for the
2 public to consider when making comments. The
3 handouts are located just outside in the hall,
4 and I think you probably saw them as you came
5 in. All public comments made today are being
6 recorded by a certified stenographer. We're
7 going to make them available to the members of
8 the Commission, and use them as we prepare to
9 make recommendations to the Governor.

10 We are asking, please, any
11 individual, and I don't think that this will
12 happen, if you do want to make a comment or a
13 statement, we'd like to limit it, if we can, to
14 about five minutes because we don't want
15 somebody monopolizing our microphone. Anybody
16 who has a prepared statement representing an
17 organization, please fill out a form
18 identifying yourself and provide a copy of the
19 prepared statement, if you have them; and those
20 forms, too, are all located in the hall.

21 There's a general sign-in sheet in
22 the other room in the hall. And if you can

23 provide your name and address, we're really
24 requesting that, not because we want to violate
25 your privacy, but because we want to inform you

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1 of additional hearings if we're going to have
2 them; and I think we will have them as we move
3 forward in this process. It's certainly not
4 mandatory that you provide the information. No
5 one can not comment simply because they haven't
6 provided that information. I do have two
7 people who have already filled out forms. And
8 the forms are available so that we have some
9 idea of the area in which you're interested.

10 Before we begin with the comments
11 we're going to have a presentation, a brief
12 presentation giving an overview of the New
13 Jersey Privacy Study Commission by Catherine
14 Starghill who is right here behind me now, and
15 is part of the department of community affairs
16 and our liaison.

17 MS. STARGHILL: Good afternoon. As
18 Judge Reavey mentioned, my name is Catherine
19 Starghill. I work for the Department of
20 Community Affairs, and I am the staff person
21 working with the Commission throughout its

22 study.

23 This presentation is just to give
24 you some background information about the
25 Privacy Study Commission. The Commission was

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1 created under the Open Public Records Act. And
2 the Open Public Records Act really is the
3 statute that defines the State's policy on
4 government records. That is opening the public
5 records for inspection, copying and
6 examination. Limitations on the Public's Right
7 of Access should be decided in favor of the
8 public; however, right within the statute is an
9 acknowledgment of a Citizens' Right to Privacy
10 in regards to his or her personal information.

11 The Commission was established as a
12 temporary body of 13 members, nine of which
13 were appointed by the Governor and four
14 appointed by the legislature. The appointments
15 were to be coordinated so that there would be
16 both advocates for privacy concerns, as well as
17 advocates for open government. And I think of
18 all of the 14, or 13 members, we have a very
19 good balance, as you'll see as we highlight the
20 individual Commission members and their

21 backgrounds or professions.

22 Larry Litwin who is the chairperson
23 is seated right in front of me. He is a
24 professor here at Rowan of Public Relations and
25 Advertising.

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1 George Cevasco is sitting rear
2 right here to my left; is a municipal clerk for
3 the Township of Brick.

4 Of course, Judge Rosemary Reavey;
5 former Superior Court Judge in Middlesex County
6 is coordinating, or overseeing this public
7 hearing.

8 Thomas Cafferty who is not here is
9 the General Counsel the New Jersey Press
10 Association.

11 Jack McEntee, also not present, a
12 Detective with the Newark Police Department.

13 And it should be pointed out, as
14 Judge Reavey mentioned, there will be three
15 hearings; one of which was last week, this one,
16 and another one tomorrow in Upper Montclair at
17 Montclair State College. And the Commission
18 members have kind of scattered Their attendance
19 so that there was coverage at all three of the

20 hearings. So some of the Commission members
21 that I might describe or call their name and
22 list their background may not be present
23 today.

24 Richard DeAngelis is an attorney
25 specializing in legislative and regulatory

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1 affairs.

2 Pamela McCauley is Director of the
3 Office of Victim-Witness Advocacy in the Essex
4 County Prosecutor's Office.

5 Grayson Barber, who is to my far
6 left in red, is an attorney specializing in
7 privacy rights advocacy.

8 Karen Sutcliffe, also not in
9 attendance today, is an attorney specializing
10 in municipal law.

11 John Hutchison is the research
12 director of the Senate Republican Office.

13 And Mr. Lawrence Wilson Junior to
14 my right is a retired Sergeant of Investigators
15 in the Ocean County Prosecutor's office. Mr.
16 Wilson, could you raise your hand.

17 Edithe Fulton, not in attendance
18 today, is President of the New Jersey Education

19 Association.

20 And last, but not least, William
21 Kearns, to my far right is General Counsel to
22 the New Jersey League of Municipalities.

23 The Commission was legislatively
24 mandated to study the privacy issues raised by
25 the collection, use, processing, and

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1 dissemination of information by public
2 agencies. That's a tall order. Neatly
3 squeezed into one sentence, effectively the
4 Commission needs to balance the need for open
5 government with concerns for personal privacy
6 and security.

7 Some of the privacy issues that the
8 Commission is focusing on are what are the
9 privacy issues raised by the way government
10 agencies collect process, use, and disseminate
11 information? How is openness in government
12 effected by privacy issues? And how should we
13 deal with these issues to safeguard the privacy
14 rights of individuals?

15 In order to assist or structure the
16 study engaged by the Commission subcommittees
17 were formed to research various aspects of the

18 issue. The first, of course, is the public
19 interest subcommittee which is hosting this
20 public hearing, as well as the one last week
21 and next week. And there will be additional
22 public hearings throughout the study process of
23 the Commission.

24 Other subcommittees are the Data
25 Practices in New Jersey, and Data Practices in

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1 Other Jurisdictions, Commercial Use, and
2 Technology.

3 The Public Interest Subcommittee
4 will consider the views of the public as
5 individuals and groups representing various
6 interests on the issue of how and where to
7 strike a balance between openness and privacy.
8 And, again, this is the Subcommittee that's
9 hosting the public hearings.

10 The Subcommittee on Data Practices
11 in New Jersey will develop an understanding of
12 the types of personal data collected by public
13 agencies in New Jersey. And that's a tall
14 order because there are so many state and local
15 agencies within New Jersey. That Subcommittee
16 will also consider the methods used to collect

17 data, which is really a crossover also with the
18 Technology Subcommittee. The Data Practices in
19 New Jersey Committee will assess the data's
20 current and potential use, and contemplate the
21 views of public administrators on the data
22 management.

23 The Subcommittee on Data Practices
24 in Other Jurisdictions will learn the
25 strategies employed by other governments to

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1 safeguard the rights of its citizens. And
2 there really is -- states go the entire
3 spectrum of being ultra conservative in
4 protecting their citizens' privacies to having
5 little or no protection. This Subcommittee has
6 benchmarked other states in regards to best
7 practices in privacy protection. The states
8 that were specifically reviewed are California,
9 Connecticut, Hawaii, Florida and Illinois.
10 Also the Subcommittee will benchmark the U.S.
11 and European Union. And when I say the U.S.,
12 at the federal level.

13 There is the Commercial Use
14 Subcommittee -- and I guess I could have given
15 the chair persons of these Subcommittees.

16 Judge Reavey is the chairperson of
17 the Public Interest Subcommittee. Grayson
18 Barber is the chairperson of the Data Practices
19 Outside of New Jersey and Other Jurisdictions.
20 Karen Sutcliffe, who is not present, is the
21 chairperson of the Data Practices in New Jersey
22 Subcommittee.

23 The Commercial Use Subcommittee is
24 chaired by Thomas Cafferty. That Subcommittee
25 will identify and consider the commercial uses

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1 of government information, both positive and
2 negative. Some positive uses being credit
3 rating agencies and employers and courts. Some
4 negative uses being identity thieves.

5 The Technology Subcommittee, which
6 is chaired by William Kearns here to my right,
7 will examine how technology facilitates the
8 collection of data; examine how data can be
9 manipulated within government; examine how data
10 is used when made available to the public; and
11 examine the effects on government data when it
12 is combined with other, or with data from other
13 sources, data mining.

14 Additionally the Commission has

15 been mandated to study the issue of whether and
16 to what extent the home address and home
17 telephone number of citizens should be made
18 publicly available to public agents, by public
19 agency. This mandate did not come directly
20 from OPRA, but came from an Executive Order
21 from the Governor, Executive Order 26. There
22 has been a separate Subcommittee established to
23 address this special mandate, or special
24 directive. Again, Grayson Barber to my far
25 left is chairperson of that subcommittee.

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1 The goal of the Privacy Study
2 Commission is to recommend specific measures to
3 strike a balance between openness in government
4 and protection of personal privacies within
5 government records. And hopefully then the
6 result will be to better safeguard the privacy
7 rights of New Jersey citizens.

8 Commission meetings are held on the
9 dates listed. All of the meetings are held at
10 the Department of Community Affairs, first
11 floor conference room, conference room 129.
12 And the DCA is located at 101 South Broad
13 street; that's the corner of Broad and Front

14 Streets in Trenton. Those meetings begin at
15 10:30, not 10:00; and they are all open to the
16 public.

17 Also the public hearings, obviously
18 June 16 is right now, right here. We have
19 another hearing tomorrow, June 17th, at
20 Montclair State College. It will also be held
21 in the ballroom of the student center. That's
22 in Upper Montclair, New Jersey.

23 Anyone can contact the Commission
24 at the email address listed;
25 privacy@dca.state.nj.us. We welcome public

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1 comments at this email address. Any inquiries
2 may be made at this email address. And also as
3 of this afternoon we have live a web site,
4 which has a lot of information about the
5 Privacy Study Commission, some of which you all
6 will already know because you sat through this
7 presentation. But there's also a public
8 comment forum on this web site so that you can
9 send the Commission your public comment. That
10 web site address is www.nj.gov/privacy.

11 And at this time I will turn it
12 back over to Judge Reavey to proceed with

13 public comments.

14 I do have two sign-ins already
15 filled out, so I think we should give those two
16 people an opportunity to be heard first. I
17 would like to remind anybody who might want to
18 come back to the microphone, feel free to do
19 that in light of comments other people might
20 make. Also feel free, even if you've spoken
21 today, to send any written comments you may
22 have to the Commission or the Subcommittee.
23 We're very, very anxious to get public input
24 into our recommendations ultimately made to the
25 Governor and maybe the ledge legislature. So

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1 please keep that in mind.

2 I have Kitty Hailey. And I've
3 asked -- again, I've asked people to give us
4 their names and addresses; that's not
5 essential, but it would be helpful, as I said,
6 to provide you with additional information, and
7 would also like to represent an organization.

8 MS. HAILEY: Thank you. And thank
9 you members of the Commission. I appreciate
10 the opportunity to speak with you. I am the
11 Legislative Chair of the New Jersey Licensed

12 Private Investigators Association. I am also
13 on the Legislative Committee of the National
14 Association of Legal Investigators. I work
15 also with the National Counsel of Investigative
16 and Security Specialists. These are all
17 investigative groups. I consider myself a
18 professional investigator, although my title is
19 officially licensed private investigator.

20 I am very concerned with the
21 public's concept of who investigators are and
22 what we do. As a result of that, and as a
23 result of wanting to promote professionalism in
24 our own profession, I have written a book
25 called The Code of Professional Conduct:

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1 Standards and Ethics for the Investigative
2 Profession.. It is a book on ethics for
3 private investigators.

4 And the reason I bring this up is
5 because there is a movement afoot across the
6 country to make sure that people do understand
7 that investigators are not that which the media
8 makes us out to be. Although in many cases I
9 wish I was; it would be a lot more fun and
10 exciting than what I do. But the reality is

11 that we are concerned professionals who work
12 for the public to help them with the problems
13 that government and other areas of our security
14 can not handle.

15 And to make you aware of why I'm
16 concerned with keeping records open, if not for
17 everyone, then at least for an exempted group
18 of persons who are professional licensed and
19 need this information, it's because of the good
20 work that we do. And I don't know if everyone
21 is aware that investigators work to prevent
22 insurance fraud. We work for insurance
23 companies to identify those persons who are
24 guilty of insurance fraud. We need access to
25 records to properly identify these people.

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1 We work to locate deadbeat parents,
2 which is to the benefit of our citizens. We
3 can not do this without having access to
4 information. We need to find people, and
5 finding people without access to records is
6 asking us to do our job with two hands tied
7 behind our backs.

8 We also work in support of
9 litigation with attorneys in the state to

10 execute on judgments; to find evidence and
11 information for court hearings. In addition to
12 this, we locate witnesses. And in my current
13 capacity, I deal mostly with criminal
14 defendants. As a matter of fact, my persons,
15 for the most part, have all been convicted. I
16 work with those who are in prison or
17 incarcerated at the moment. And as you know,
18 there are many persons who are found to be
19 wrongfully incarcerated.

20 DNA is a wonderful thing, but
21 everyone has not left DNA samples on the scene
22 of a crime; and every crime can not be changed
23 because of it. If I'm working for someone who
24 is incarcerated and on death row and there is
25 no DNA available, and this individual has only

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1 one last chance to be to become a member of
2 society again because he feels that he has been
3 wrongfully convicted, then I can not find his
4 witnesses to get them to court in a timely man
5 to save his life if I can not have access to
6 public records.

7 I mentioned earlier to one of the
8 members of the Commission that there are

9 already in place something called IRSG
10 Principles. And they were adopted by insurance
11 brokers that gather and sell information in an
12 adept to self-regulate. And they provide a
13 very good example of those areas of persons and
14 those categories of persons that should be at
15 least allowed access to information for
16 permissible purposes. I do not have them with
17 me. I'm sorry I did not bring them, but I will
18 make them available to the Commission. We also
19 be sending a position letter from the New
20 Jersey Licensed Private Investigators
21 Association, and we've asked to speak with you
22 again so that we can make our desires
23 understood.

24 I'm a citizen. I'm a member of the
25 community of the United States of America. I'm

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1 interested in my own privacy. I don't want
2 anyone cloning my identity, but investigators
3 are not the persons that are clone identities.
4 We're the persons that identify the cloners.
5 We're the ones that stop the stalkers before
6 crimes are committed; and protect our children
7 by doing background investigations into their

8 care givers. We're the ones that go to
9 companies and corporations and work with them
10 to identify persons within their ranks who are
11 harassing others; who have lied on their
12 application forms; who are potential terrorists
13 who threaten our very homeland security.

14 And for those reasons, I'd like you
15 to consider allowing us to continue to have
16 access to information which I consider
17 exceptionally vital. I've provided my name and
18 my telephone number and my address. I am
19 available for any questions that any of the
20 Commission has. And I will make available any
21 other investigators, if necessary, to answer
22 additional questions. And if you can -- if you
23 can feel free to call upon me, I would like to
24 also feel free to come back and to rebut any of
25 the other things that I hear as we're listening

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1 to the Commission.

2 JUDGE KARCHER-REAVEY: You
3 certainly can do that this afternoon or any
4 other time if you find something that you don't
5 agree with. The purpose of our hearing is
6 really to collect information, but some of our

7 members feel that we need to clarify some
8 positions. And so we've decided that maybe if
9 you don't mind we'll have a couple of
10 questions. If you don't feel you can respond
11 to it, just feel free, okay.

12 MS. HAILEY: Oh, absolutely.

13 MS. BARBER: Hi. My name is
14 Grayson Barber. And thank you very much for
15 your very polished, and I think, enlightening
16 testimony. I certainly appreciate you coming,
17 and we really appreciate your input.

18 I wanted to ask a couple of
19 questions. One of which, you know somebody
20 sent me an article from PI Magazine from last
21 month, so I don't know if that's a magazine
22 that you would have read, but it was an article
23 about a famous case called the Amy Boyer Case.

24 Now what happened in that case is
25 that somebody named Amy Boyer was murdered by a

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1 stalker. The official title of the case is
2 Resmburg versus Docusearch. What happened is
3 that the stalker went to Docusearch and hired
4 Docusearch in the capacity of a private
5 investigator; got some information about Amy

6 Boyer; and then used that information to find
7 her and murdered her.

8 The New Hampshire Supreme Court
9 issued an opinion saying that Docusearch and
10 other private investigators actually had a duty
11 of care toward people like Amy Boyer. And the
12 author of this article in PI Magazine said that
13 he felt that the New Hampshire Supreme Court
14 had gone too far.

15 I guess my question to you is
16 whether -- let me figure out how to frame the
17 question.

18 Do you feel that the entities that
19 have databases like Docusearch or like the
20 State have a duty of care toward the people
21 whose information is contained in this data
22 base? Do you have any comments or
23 observations?

24 MS. HAILEY: I do. I'm really
25 familiar with everything that you're speaking

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1 about for two reasons. Number one PI Magazine
2 used to be Private Investigator Magazine, and
3 within the last year it was purchased by a New
4 Jersey resident and private investigator, and

5 it now stands for Professional Investigator
6 Magazine. And I happen to be one of the
7 writers for P.I. Magazine, so I'm aware of it
8 very well.

9 The Amy Boyer case, let me start by
10 saying, is a real shame. It's a terrible
11 tragedy. And it's horrible that anything of
12 that nature happened. And you'll probably know
13 that about six years ago there was a similar
14 case out in California which is the Rebecca
15 Schaffer case. And that is where a young lady
16 who was a television star was stalked by a
17 person who hired somebody who hired somebody
18 who hired somebody who found some information,
19 and then he went and shot the young lady. So
20 these are things that happen, and they are
21 tragedies, they are travesties; it's horrible
22 thing that they ever happened. I'm not saying
23 that they are good.

24 But I am saying there are two
25 things that happen that are bad in the course

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1 of the history private investigators that I'd
2 like to compare it immediately to the positions
3 of attorneys and doctors where there are

4 tragedies that happen all the time in
5 malpractice cases being brought regularly. I'd
6 say that our track record in an industry is
7 really quite good; although it doesn't forgive
8 the death of anyone.

9 But the reason I mentioned the IRSG
10 Principles is because information brokers which
11 are a group of people who gather public records
12 from a variety of sources across the country
13 and amass them for secondary sale have decided
14 that they should govern themselves, and that
15 there should be permissible purposes for which
16 someone can obtain information. That you can't
17 just get something because you want it. That
18 there has to be an ongoing court case; that
19 there is research into a deadbeat parent; that
20 for insurance reasons you're researching a
21 person who is guilty of fraud; that there is a
22 reason that is permissible and acceptable. So
23 they have outlined the IRSG Principles.

24 Now, it's my understanding after
25 reading Boyer case that the young man, who by

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1 the way killed himself afterwards; after he
2 shot Amy Boyer he shot himself. He went onto

3 the internet and he contacted an internet
4 database company that sold its services
5 publicly. However, they were down in Florida,
6 and they didn't really have a lot of good
7 information available to them because they
8 weren't one of the major database companies and
9 they were not governed by the IRSG Principles,
10 and they hired a local New Hampshire
11 investigator to do additional work.

12 The New Hampshire investigator
13 apparently did not sufficiently research the
14 reason for the work. Didn't know why he or
15 she, and I don't know whether it was a male or
16 female, had actually was asked do get the
17 information. Didn't understand the purpose.
18 Didn't understand the client's need for the
19 data. And because it came from a relatively
20 recognized internet company, assumed to his
21 detriment that the material was needed for a
22 permissible reason. And so he went the next
23 step and got additional information. And sadly
24 as a result of that Miss Boyer died. That's
25 one of the reasons that I said I think that

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1 there should be responsible reason for getting

2 information.

3 I believe in the openness of
4 records, but I believe you should be willing to
5 sign, as you do with a credit report, to let
6 someone know why you are looking for
7 information. I believe you should be willing
8 to identify your purpose and stand behind it.
9 That I don't think that someone should be able
10 to go to the records and look at every single
11 record of every person in New Jersey and
12 perhaps decide who should be targeted for some
13 reason or another. But that's not what
14 investigators use information for. And my
15 purpose in speaking here today was to clarify
16 that we are doing services for lawyers, the
17 court system, for insurance companies, for
18 private individuals with cases that are ongoing
19 or who are being stalked or bothered. And our
20 purpose for getting information is not to
21 clone, but to help.

22 MS. BARBER: Thank you very much.
23 I think that's really helpful.

24 Would you be kind enough to get us
25 a copy of these IRSG Principles, or let us know

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1 where we can kind them?

2 MS. HAILEY: I'll send them along.

3 I believe Mr. Cross, who is going to speak with
4 us next, is putting together a position paper
5 for the New Jersey Licensed Private
6 Investigators Association, and I'll make sure
7 that that is included with it.

8 MS. BARBER: That's great. Thank
9 you.

10 MS. HAILEY: Thank you.

11 MR. KEARNS: I think my voice will
12 carry. If it doesn't, I'll get the mike.

13 You raise a number of really
14 interesting and challenging ideas, because I
15 think we can all agree that when you find the
16 deadbeat parent, that's good. And that when
17 you find the information that gets someone who
18 has been wrongfully convicted, that's good. By
19 the same token when you find the spouse who's
20 been trying to disappear because of harassment
21 and because of violence perpetrated on that
22 spouse, that may not be so good if that gets to
23 the person who has been harassing them.

24 How do we draw the line?

25 MS. HAILEY: Well, probably the

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1 same way that Motor Vehicles has done this. We
2 had the same situation arise, I believe it was
3 six years ago, with the Department of Motor
4 Vehicles; that there was concern for access to
5 information and records. And first of all, if
6 someone can prove that they are the victim of
7 harassment with New Jersey Motor Vehicles,
8 there is an opt-out and a privacy immediately
9 attached to that record so that they can not be
10 identified. If they had been harassed and they
11 have a restraining order against another
12 person, then their name is not included in the
13 major database.

14 But for the same reasons that I
15 spoke with you today, I spoke with the
16 Commission that studied the Privacy Protection
17 Act for Drivers. And as a result of that,
18 investigators are one the exempted groups that
19 are entitled to information as long as there
20 can be a reason that is acceptable by Motor
21 Vehicle to provide that information.

22 And could I tell just one quick
23 story about one of the ways I have used this?

24 Some time ago I was approached by
25 another investigator who asked me if I would

1 help because he didn't feel that he could
2 handle this particular case. He thought that
3 the client might be actually a little bit
4 crazy. He wasn't sure and he thought I had
5 more patience than he did. And it turned out
6 that her story was that her husband of 20 years
7 had died. She was in her early 40s; she had
8 two teenage children; and she was devastated.
9 It was an unexpected automobile accident and he
10 passed away. She was with her sister out of
11 state recovering. Taking two weeks off with
12 her sister to get her life together because no
13 one expects their husband to pass away at age
14 40, and she needed some time to regroup.

15 She was in a hotel and the
16 telephone rang and a person said to her on the
17 phone you may remember me. I'm the person that
18 raped you when you were 17, I still have the
19 knife. I understand you're alone again. I'll
20 see you soon. And he hung up.

21 The first investigator did not
22 believe that she was telling the truth. She
23 went to the police. The police believed that
24 she was the victim of trauma as a result of the
25 early death of her husband. They did not

1 believe her.

2 She did not remember the situation
3 well because she had blocked it from her mind.
4 She was 17 years old. She was visiting a
5 college in preparation of going to school; it
6 was a visitation weekend. And she had been
7 invited to a frat party with a group of other
8 girls. She did something she shouldn't have
9 done. She went up to a boy's room with him to
10 see his "something" collection; she didn't
11 remember what it was, and she had had a drink
12 and he raped her. And she was mortified,
13 embarrassed. But they went downstairs and they
14 continued to be a part of the party because she
15 didn't know what to do. She knew her mother
16 would absolutely have a fit, and she couldn't
17 admit it to her mother. She couldn't admit it
18 to her friends. And she figured she would
19 never see this person again, and yet he had
20 threatened her with a knife. She certainly
21 didn't think that 20 some odd years later she
22 would run in contact with him, or that he would
23 have any knowledge of how her husband had died
24 or where she would be on vacation to
25 recuperate.

1 I spoke with her and all she
2 remembered was the name of the college, which
3 she didn't go to because she didn't want to be
4 anywhere near this young man, that was her
5 reason for not going there. She remembered his
6 first name, and she remembered the fraternity
7 house that they had gone to. That was it. So
8 we had a first name; the fact that she was 17,
9 and that information.

10 Because of public records I was
11 able to identify the young man 20 some odd
12 years later. Because of public records I was
13 able to check and find that he was now a
14 resident of another state, but very, very close
15 to her and where she lived. I was able to find
16 out that not only did he have a gun permit, but
17 he was a registered gun dealer, and that he
18 dealt in rare and unusual weapons. I found out
19 that he had a history that was checkered. And
20 that he had a problem with the Sheriffs
21 Department locally. And when I went with this
22 information to both the Sheriff's Department in
23 the town where he now lived, and the Sheriff's
24 Department in the town where she lived, all of
25 a sudden they started looking at it

1 differently. And they looked at it quite
2 differently when his car showed up outside of
3 her house one evening.

4 So did I save her life; I don't
5 know. Did I identify a stalker; yeah, I think
6 I did. And that was all from public records.
7 I would not have been able to find this man on
8 that limited information any other way. So
9 that's why it's important to me, because the
10 police didn't take her seriously. Would she
11 have been raped again; I don't know. Maybe he
12 was just curious.

13 And by the way, he found about what
14 hand to her and about her husband because it
15 made the local papers. And the local papers
16 had a little item that she was recovering with
17 her sister at such and such location. So it as
18 public information.

19 So unless we're going to stop all
20 public information, we can't stop stalkers; and
21 we can't stop people with ill means and with
22 ill intent, but we can do our very, very best
23 to prevent things from happening to good
24 people, which is basically what private

25 investigators do every day of our lives.

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1 MR. KERNS: You're a licensed
2 private investigator in New Jersey?

3 MS. HAILEY: New Jersey and
4 Pennsylvania.

5 MR. KEARNS: So that if you abuse
6 something, your license is on the line?

7 MS. HAILEY: I have a big penalty.
8 My license is on the line, and there are
9 criminal charges that can be levied against
10 me. The average citizen can do what I do and
11 break the law and get a slap on the wrist. My
12 entire profession is at risk. My livelihood is
13 at risk. This is what I've done for 33 years.

14 MR. KEARNS: Which may be a basis
15 for finding some exception for people who hold
16 that kind of license to get access to
17 information if there's an effective enforcement
18 mechanism against it.

19 MS. HAILEY: Not only that, but we
20 now have continuing education programs. We
21 have seminars and training. We have ethics as
22 a part of almost every single seminar that we
23 attend. So that there's a constant reeducating

24 and re-sensitivity of investigators to how they
25 should do their work. Unfortunately popular

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1 culture makes us all think that Charlie's
2 Angels is the thing that we are. As much as I
3 want to look like everybody on Charlie's
4 Angels, it's not going to happen, but I can do
5 a job a heck of a lot better than they do.

6 JUDGE KARCHER-REAVEY: Okay. Thank
7 you very much.

8 MS. HAILEY: Thank you.

9 JUDGE KARCHER-REAVEY:
10 The other peak speaker assignment
11 is Al Cross.

12 MR. CROSS: Good afternoon.

13 JUDGE KARCHER-REAVEY: I note that
14 we do have your address, telephone number, and
15 you do represent an organization.

16 MR. CROSS: That's correct.

17 My name is Al Cross. I'm the
18 President of the New Jersey Licensed Private
19 Investigator Association. I am also a board
20 member of the National Council of Investigative
21 and Security Services, NCIS.

22 I acknowledge the concern of the

23 public because of ID theft and the problems
24 that we have out there due to access of public
25 records. As my associate Kitty said, I agree

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1 with everything she has said; there's no sense
2 in going over that. What I wanted to state
3 that in the State of New Jersey, as Kitty, I am
4 licensed in Pennsylvania and New Jersey. In
5 the State of New Jersey the average P.I. is
6 probably 80% ex-law enforcement. We have to go
7 through an exhaustive investigation by the New
8 Jersey State Police. We have to have at least
9 10,000 hours of investigative experience. And
10 we have to have impeccable credit history in
11 order to obtain the license; obviously no
12 criminal arrests or anything like that. That's
13 in New Jersey. New Jersey is hard. There's a
14 lot of people that I know that are registered
15 in Pennsylvania that are not licensed in New
16 Jersey because of the problems that the New
17 Jersey State really gets into, which is great.
18 There are some states in the U.S.
19 that have no requirements at all for any
20 private investigator. They can hang a shingle
21 outside their window and say they are an

22 investigator and that's it. Others we really
23 get into. New York is another one that does a
24 lot with it.

25 I'm an ex Maryland State Trooper.

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1 I've been doing this since 1991. We just
2 welcome our chance to go ahead and do anything
3 we can where if anything is passed that our
4 profession has at least some type of exemption
5 to public records.

6 MS. BARBER: Hi. Thank you very
7 much for coming and for your input.

8 Some time ago the Attorney
9 General's office in the State of New Jersey,
10 let's see, it has a licensing, which is called
11 the Division of Consumer Affairs. And there
12 are entities within the Division of Consumer
13 Affairs that license professionals, including
14 investigators, doctors, nurses, manicurists;
15 quite a few licensed professions. And a couple
16 of years ago the Division of Consumer Affairs
17 made a decision to post on the internet the
18 address of record of every licensed
19 professional licensed through that DCA.

20 And so I believe that at that time

21 a couple of years ago that every licensed
22 professional investigator had his or her
23 address of record posted on the internet. And
24 if the address of record was that individual's
25 home address, that meant that the home address

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1 of the private investigator was posted on the
2 internet by the State.

3 Does that strike you as appropriate
4 and reasonable?

5 MR. CROSS: My understanding -- I
6 didn't hear of this in itself. But my
7 understanding with the records the way they're
8 kept through the New Jersey State Police, if
9 you work out of your home, which probably a lot
10 of investigators do, that you can opt to have
11 your home address not available. If you're
12 working out of an office as I do, then my
13 office address, that's not a problem. But I
14 think there was an opt-out on that.

15 MS. BARBER: I believe currently
16 the rule is that you can have another address
17 as your address of record. So that if, for
18 example, you have a home office, your address
19 of record could be at Mailboxes Et Cetera, or

20 it could be a post office box, but you have to
21 have an address of record of some kind.

22 Those addresses are no longer on
23 the internet. They are available by telephone
24 from the Division of Consumer Affairs. If
25 somebody has a complaint or wants to make sure

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1 that so-and-so is duly licensed, or for
2 whatever purpose, it's just one phone call
3 away, but it's not disseminated on the
4 internet.

5 Thank you very much.

6 MR. CROSS: Thank you.

7 JUDGE KARCHER-REAVEY: Thank you
8 very much.

9 Anybody else that didn't fill out a
10 form?

11 MR. KEARNS: Judge, while we're
12 sort of in the area, I think we ought to
13 probably get some information on what the
14 licensing requirements are for private
15 investigators, and the enforcement level on it
16 just for our information some time in the
17 future.

18 JUDGE KARCHER-REAVEY: You mean

19 additional information?

20 MR. KEARNS: Well, we can get --
21 Cathy can get it and find out what the
22 licensing requirements are, and what the
23 enforcement mechanism is if someone violates.
24 I think that would be very significant; at
25 least to me it would be.

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1 JUDGE KARCHER-REAVEY: Good.
2 Come right up. This is Amy
3 Holder. You've given us your name and
4 address. That's good. And we'd love to hear
5 your comments.

6 MS. HOLDER: Good afternoon. My
7 name is Amy Holder. I am vice-president of a
8 company called Datatrace here in New Jersey.
9 Datatrace is a company that provides tax and
10 assessment searches, resolves flood hazard
11 determinations for the title industry. We're
12 members of the New Jersey Land Title Industry,
13 the Pennsylvania Land Title Industry, the
14 American Land Title Industry, and Mortgage
15 Bankers Association.

16 The information that we provide we
17 sell to the title industry and to the banking

18 associations. It's essential to our business
19 that we have access to home addresses. Part of
20 our report is the owner of the property, the
21 property location, the mailing address, the
22 block and lot. The only reason we would be
23 selling this information would be for
24 refinancing of a property or a sale of a
25 property or foreclosure of a property; whatever

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1 the title agency or title insurance company
2 would have been ordering the report for.
3 I've been in this business for 16
4 years. When we started this company we were
5 known by another name known as TechnoScan. At
6 that time the title industry was accustomed to
7 receiving the report from the municipal
8 government within the time allotted under the
9 state statute of 15 business days. As the
10 result of the economy today and the lowering
11 interest rates and the demands that are placed
12 on the title industry through the banks and
13 mortgage lenders, 24 hours to 48 hours is now
14 the norm for turning around a tax report. So
15 what we've done is we've developed the ability
16 through technology to be able to satisfy their

17 needs and in turn help the consumer. If the
18 consumer does not receive the tax report within
19 the time that they filed the commitment with
20 their mortgage company, the closing may not
21 happen; and, therefore, they may not be able to
22 achieve their ultimate goal which would be to
23 purchase or to refinance their home.

24 It's our concern that if the access
25 to public record is blocked, specifically home

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1 addresses, that it would greatly effect the way
2 that we conduct our business. We currently
3 service over 90 title agencies between
4 Pennsylvania and New York. We employ a large
5 number of people in the State of New Jersey,
6 which we would not be able to do if we didn't
7 have access to this information. Though we're
8 not licensed or regulated like the private
9 investigators, we do not sell our information
10 to the public. We only sell the information,
11 again, to those people who have a vested
12 interest in making sure that the closing
13 happens.

14 And we have a great concern that
15 the closing of public record would greatly

16 prohibit us from being able to do business here
17 in New Jersey.

18 JUDGE KARCHER-REAVEY: Thank YOU.

19 MS. BARBER: I have a question, but
20 I need to --

21 MS. HOLDER: I've included my
22 address and my phone number. Actually, you
23 know what, I think in my rush I wrote my home
24 phone number down. You're more than welcome to
25 contact me. My business number is

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1 1-800-477-8288; and I can be reached at
2 extension 203. I'll also leave you with my
3 mobile number, which I'm available at, which is
4 (908) 963-2367. My email address is
5 AmyHolder@edatatrace.com.

6 And just to clarify, Datatrace is a
7 national company. We have offices in 22
8 markets throughout the country where we access
9 public record. We have -- we provide not only
10 tax certifications nationwide, but we also have
11 built title plans in 22 markets nationwide. We
12 have many people throughout the country that
13 are experienced in privacy and public record.
14 And I would offer that resource to you if it

15 would help. We have offices in Hawaii,
16 Florida, California, Texas. Some of the state
17 -- the only state I believe that we do not
18 have an office in is in Connecticut. So if
19 there could be anyway we can help you in
20 understanding how the Public Record Acts work
21 in those states, I'd more than happy to offer
22 those resources.

23 JUDGE KARCHER-REAVEY: To your
24 knowledge, do any all of those states have Open
25 Public Record Acts?

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1 MS. HOLDER: We wouldn't be able to
2 do what we do if we couldn't have access to the
3 public records, so...

4 JUDGE KARCHER-REAVEY: You do as
5 far as you know.

6 MS. HOLDER: As far as I am aware.
7 We have personally, the company that -- my
8 company was just sold to Datatrace last year.
9 But the company that we sold to Datatrace we
10 personally have had experience not only here in
11 New Jersey with the situation 16 years ago when
12 we started, but also in Pennsylvania, accessing
13 public record. And we've persevered and we're

14 successful in New Jersey; we have a great
15 working relationship, I believe, with the
16 municipal workers throughout the state, and we
17 don't want to see that damaged.

18 MS. BARBER: Thank you very much
19 for coming and testifying.

20 I think that you have brought up an
21 issue that's very important, and I'd like to
22 flush it out a little bit, but I'm afraid that
23 my question may come out a little awkward
24 because I'm sort of thinking out loud.

25 I appreciate the interests of

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1 Datatrace in being able to do business, but I
2 think that property records and title records
3 have traditionally been in the public domain
4 for additional reasons that are maybe loftier
5 or more philosophical than just an assuring
6 profits for companies that do business in
7 turning around this kind of information. And
8 I'm wondering if you might be able to help us
9 flush out these lofty and philosophical reasons
10 for having property records in the public
11 domain.

12 For example, just to prime the

13 pump, so to speak, I can see that property
14 assessment should be in the public domain so
15 that I can make sure that my land is assessed
16 at a value that is somehow objectively
17 comparable to my neighbor, even though my
18 neighbor is the Mayor's brother-in-law. So I
19 can make sure that the Mayor's brother-in-law
20 isn't getting a better deal than me. So it has
21 to do with keeping the government open and
22 honest, and making sure that the taxes are
23 fairly imposed.

24 So if you're able, I would
25 certainly appreciate anything you might like to

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1 share with us about other reasons for keeping
2 home addresses in the public domain above and
3 beyond your company's specific interests.

4 MS. HOLDER: My first thought would
5 be that if I would purchase a piece of property
6 as a taxpayer, consumer, resident of the State
7 of New Jersey, I would want a guarantee that
8 this property is free and clear of any
9 judgments or encumbrances by anybody prior to
10 me. If the address of that property is not
11 made available, currently the way that that

12 would be done is you would have an abstractor
13 that would go into a county court house and
14 research the record. And part of what they use
15 to research the record is the home address.

16 JUDGE KARCHER-REAVEY: I'm sorry, I
17 don't mean to interrupt, but then what we're
18 really doing is bypassing the title search.

19 MS. HOLDER: Well, that is the
20 title searcher. I'm sorry, I'm not referring
21 to my -- I thought the question was to try --

22 JUDGE KARCHER-REAVEY: But that is
23 what your company does.

24 MS. HOLDER: No, that's not what we
25 do. We provide a tax certification. What we

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1 provide is we provide a document that tells you
2 what's been billed by the municipality; what's
3 owed to the municipality; if there's any liens
4 that the municipality has placed on the
5 property.

6 JUDGE KARCHER-REAVEY: You do that
7 just for the municipality or also the county?

8 MS. HOLDER: We just strictly work
9 on the municipal level, currently. I can't say
10 that that isn't part of the big picture at some

11 point down the road, but this is what we've
12 done for 16 years.

13 Now, I'm a little confused. I
14 don't know if I'm answering the question. I
15 thought the question was outside of what our
16 company does.

17 But I'm assuming that if you're
18 talking about home addresses, I'm assuming
19 you're not talking about just for municipal
20 records. I'm assuming that it's all public
21 records, which would include the county record
22 and state record. So I guess then...

23 MS. BARBER: Right. If you're
24 willing to speak to that.

25 MS. HOLDER: I don't know that I'm

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1 an expert enough. I can just say from my own
2 perspective if, and I have to relate it to what
3 I know, would we if I were to purchase a piece
4 of property in the State of New Jersey, I would
5 want to know that it's free and clear of any
6 issues by anybody else, and you would need the
7 home address to do that.

8 Outside of that, I don't think that
9 I have the expertise to answer your question,

10 other than how it related to my business.

11 MS. BARBER: Okay. Thank you very
12 much.

13 MR. LITWIN: I just have a quick
14 question.

15 What assurance is there -- we know
16 about the private investigator. What assurance
17 is there that employees of your organization
18 wouldn't get that information and then sell it
19 to someone whom they may should not sell it to.

20 MS. HOLDER: If you would like to
21 license us, I would welcome it.

22 I don't know what assurance I can
23 give you. What assurance do I have that the
24 checker at Shop Rite isn't going to take the
25 address off my check when I pay my grocery bill

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1 and sell that to somebody. Our employees -- I
2 don't even know how to answer that question.
3 Are they sitting down and logging addresses; I
4 can guarantee you they don't have the time to
5 do that.

6 I think everybody involved in
7 property ownership or home ownership at this
8 point understands what our industry has been

9 through in the last three years. With interest
10 rates the way they've been, we're chasing our
11 tail constantly, which is a good thing, I won't
12 complain about that. But do I have employees
13 sitting in back rooms making lists and selling
14 them; if I did, they wouldn't be there. I
15 think there's just no time to do anything like
16 that. And that's not our goal. I mean, our
17 goal really is to service the title industry,
18 and in turn service the consumer.

19 MR. LITWIN: Thank you.

20 JUDGE KARCHER-REAVEY: Okay. Thank
21 you.

22 MS. HOLDER: Thank you very much.

23 JUDGE KARCHER-REAVEY: Anybody else
24 that would like to make a comment?

25 Well, I don't think I remembered to

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1 say this, but we're staying until 7:00. So if
2 anybody thinks of something they'd like to say
3 later or wants to get a cup of coffee or come
4 back later, feel free to do that. And as I
5 said, if anybody -- if there's anything that
6 anybody said causes you to feel that some
7 comment should be made, feel free to come back

8 to the microphone.

9 (Whereupon, a brief recess was
10 taken.)

11 JUDGE KARCHER-REAVEY: We would
12 like to go back, if we could, I guess on the
13 record, if the stenographer is taking down
14 what's going on, because we do have one, at
15 least one person who would like to be heard.

16 We have Michael Clegg. If you come
17 up to the microphone. And, again, I have your
18 email. I don't think I need more than that.

19 MR. CLEGG: Sorry, I'm a little
20 nervous.

21 My name is, as you said, Michael
22 Clegg, and I'm a private citizen. I've been in
23 that business for about 23 years. And I wanted
24 to voice for privacy, since we've had a couple
25 of speakers who work for public access; I'm

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1 here to speak for privacy. I'm a private
2 citizen; that goes with the territory.

3 I'm generally a very private
4 person. It's not that I don't like other
5 people, it's just that I don't want them
6 calling me or mailing me, or especially

7 emailing me. I recognize that most of the
8 things that this Commission deals with are not
9 necessarily internet related, while there can
10 be public files found on the internet, they
11 aren't necessarily internet security per se.
12 But I feel that giving further leeway to public
13 access for home addresses and telephone numbers
14 is an open gate towards a complete wholesale
15 loss of internet privacy, which I think is
16 already at an all time low.

17 You can barely go to a web site or
18 download an email without accessing some kind
19 of strange and unusual other site or pop up
20 add. And while they're annoying, yes, and they
21 don't hurt you, yes, sometimes they are
22 downsides. HeadWare, which is a programming
23 that will send into your computer and will just
24 simply grab banner ads any time you go online,
25 or sometimes when you're not online but merely

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1 connected to the internet is becoming more and
2 more prevalent and more and more insidious.

3 I recently noticed the other day I
4 got a banner ad from a company called
5 MicorSoft, and it seemed very, very official as

6 though it came from MicroSoft, but to the
7 untrained eye easily mixed up, and that can
8 lead to even more problems.

9 Now, I'm not just talking about
10 viruses, I'm mostly talking about finding out
11 information. Last semester I took a course
12 here at Rowan University and I was surprised at
13 how easy it was to find information on myself
14 from sites I never knew existed. I could find
15 my address, my age. I could find just about
16 anything I needed to find myself. Which,
17 granted it's hard enough to find myself, but
18 the problem is when other people are trying to
19 find me.

20 JUDGE KARCHER-REAVEY: You mean
21 about yourself.

22 MR. CLEGG: Well, I can find out my
23 location at any general time.

24 And so I feel that insuring privacy
25 on a more, I suppose, standard is the phrase

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1 I'm looking for, level, phone numbers and home
2 addresses is the first step to a bull mark
3 against these encroaching seekers of
4 information, for lack of a better term. I'm

5 speaking off the cuff here, so that's the best
6 I can do.

7 So I just wanted to voice privacy.
8 Because it will -- if we don't have privacy now
9 for the basic level, higher levels will never,
10 ever get privacy here. That's pretty much it,
11 unless there's questions.

12 MR. KERNS: You're going into an
13 area that I think is really very important for
14 us to look at. And let me give you a pragmatic
15 example. You live in Glassboro; maybe you
16 don't, but I'm just putting that down for the
17 moment.

18 MR. CLEGG: I don't, but okay.

19 MR. KEARNS: And Glassboro puts out
20 an email news letter once a week of things that
21 are happening, things you can register for,
22 recreation programs, sports programs, whatever;
23 and you think that would be really neat for you
24 to be able to have that. So you give Glassboro
25 your email address.

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1 Now, Joe Jones who runs the local
2 pizza parlor, and the other person who runs the
3 dry cleaner, and the other person who runs some

4 other business in Glassboro says to the town,
5 you've got this list of email addresses,
6 they're public record, I should have them so I
7 can send all these people emails telling them
8 about my specials this week.

9 Does that bother you.

10 MR. CLEGG: That bothers me a lot.
11 Especially -- I've gotten emails about so many
12 different types of body alterations; some parts
13 I don't even have. So they apparently did no
14 real research into this.

15 But even just considering -- first
16 of all, the quality of the SPAM, as it's
17 traditional called, the excess email from
18 unwanted sources, just the presence of them.
19 And they can very offensive in their subjects
20 and their nature. MircoSoft Outlook by default
21 will just simply check the first email that's
22 on the list and so it will open it without
23 being told to. This is all by default. And
24 that can open up offensive material, viruses.
25 And of course there are many, many systems that

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1 once an email is read, a signal then goes back
2 to the sender saying it's a live account and it

3 goes out even further. I actually have a
4 schematic that I unfortunately don't have with
5 me, but it takes up about 18 pages in ten point
6 font on the exact path that your email address
7 will take just by going to one site.

8 But important messages are often
9 lost because people will see an entire group of
10 SPAM, like win a million dollars, 10% off your
11 mortgage, important information. And many
12 SPAMMERS, many people who send this email have
13 caught on to the growing literacy, computer
14 literacy of the users, and they will use
15 messages like, subject, hi, we talked the other
16 day; or subject, important information about
17 work. This is insidious to the point of what I
18 would consider criminal because I consider it
19 fraud.

20 There's actually a commercial out
21 with this boy and this girl are in this
22 classroom and this little girl sends what looks
23 like a love letter over and the boy opens it
24 and it says get a low, low rate on your
25 mortgage; it's for the new AOL SPAM blocker,

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1 which I don't believe works.

2 MR. KEARNS: Isn't very good.

3 MR. CLEGG: But I feel that
4 preventing simple, or perhaps if there was just
5 simply a greater effort needed to attain
6 addresses and phone numbers, then there would
7 be more of a case for internet privacy.
8 Especially since, like I said, I'm a very
9 private person, I do a lot of things on the
10 internet because I like the illusion that they
11 can't trace me, even though I already know that
12 they can.

13 So I urge for privacy for future
14 consideration.

15 MR. KEARNS: Thank you.

16 JUDGE KARCHER-REAVEY: Thank you
17 very much.

18 (Whereupon, a brief recess was
19 taken.)

20 JUDGE KARCHER-REAVEY: I'm told
21 it's 7:00. We have no other people who wish to
22 be heard, so we'll close the meeting.

23 We're going to have our next
24 meeting at Montclair College -- State
25 University, sorry, tomorrow from 4:00 to 7:00.

GUY J. RENZI & ASSOCIATES

1 And I hope everybody will tell anyone who wants
2 to come that they are more than welcome. We're
3 very interested in public input, and we hope
4 all of you will be there.

5 (Whereupon, the hearing was
6 concluded at 7:00 p.m.)

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8 I, KAREN L. DeLUCIA, License No. XI01888,

9 a Certified Shorthand Reporter and Notary

10 Public of the State of New Jersey, do hereby

11 certify the foregoing to be a true and accurate

12 transcript of my original stenographic notes

13 taken at the time and place hereinbefore set

14 forth.

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Karen L. DeLucia, CSR

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23 Dated: ^

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GUY J. RENZI & ASSOCIATES

